

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION

3:05CV367-1-V

3:96CR114-V

JASON O'BRYAN MACKEY,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

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ORDER

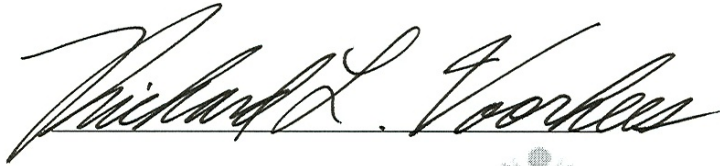
This Matter comes before the Court upon Petitioner's Motion to Vacate, Set Aside, or Correct Sentence, filed August 17, 2005.

Pursuant to Rule 2 of the Rules Governing Section 2255 Proceedings for the United States District Courts, a petitioner must sign his motion under the penalty of perjury. Petitioner did not sign his petition. Consequently, this Court is dismissing Petitioner's Motion to Vacate without prejudice for failure to comply with the requirements of Rule 2(b) of the Rules Governing Section 2255 Proceedings for the United States District Courts.

In addition, the Court notes that it appears that any motion to vacate filed by Petitioner would be untimely. Petitioner's sentence and conviction became final in July 1997 and therefore his one year limitation period under the Antiterrorism and Effective Death Penalty Act in all likelihood expired in July 1998. See 28 U.S.C. § 2255. Consequently, if Petitioner elects to file a signed motion to vacate he should be sure to include an argument as to why his motion to vacate should be considered timely filed.

THEREFORE, IT IS HEREBY ORDERED that Petitioner's Motion to Vacate, Set
Aside, or Correct Sentence is **DISMISSED without prejudice**.

Signed: August 29, 2005

A handwritten signature in black ink, reading "Richard L. Voorhees". The signature is written in a cursive style with a horizontal line underneath the text.

Richard L. Voorhees
United States District Judge

